

## **DETAILED ACTION**

### ***Response to Amendment***

The Applicant amended independent claims 1 and 14. All pending claims 1-21 were examined in this final office action necessitated by amendment.

### ***Response to Arguments***

Applicant's arguments, see Remarks, filed 28 January 2008, with respect to the rejection(s) of claim(s) 1-21 under 35 USC 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sobalvarro and PRN as necessitated by amendment. The combination of Sobalvarro and PRN address the subject matter in the amended claims 1 and 14.

The declaration under Rule 132 was reviewed and accepted.

### **Official Notice Admitted Prior Art**

If applicant does not seasonably traverse the well-known statement, or official notice, during examination, then the object of the well-known statement is admitted as prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant is charged with rebutting the well-known statement in the next reply after the Office action in which the well-known

statement was made. To adequately traverse an official notice, an applicant must specifically point out the supposed errors in the examiner's action, stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.11 I(b). See also Chevenard, 139 F.2d at 713, 60 USPQ at 241. A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice is inadequate. [MPEP 2144.03(c)]. Arguments presented pertained

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

- 1. Claims 1-3, 6-10, 14, 17, and 18 are rejected under 35 USC 103(a) as being unpatentable over Sobalvarro (US 7,092,892) in view of PRN (PTO-892, Item: U).**

Sobalvarro teaches a system and method of dynamically grouping and selling products or services in response to consumer constraints and selections (see at least abstract; Fig. 1; col. 1-col. 6). Sobalvarro teaches an advantageous implementation provided by is a computer system for offering travel arrangements over a decentralized computer network to a consumer using a web-browsing appliance. The computer system includes a data storage arrangement that stores descriptions of available travel components and at least one travel package template. A user interface element coupled to the network

elicits at least one constraint from a consumer. A package engine dynamically generates at least one travel package based on the elicited consumer constraint, at least one travel package template, and at least one stored available travel component description. The package engine offers the generated travel package to the consumer by transmitting a description of the generated travel package over the decentralized computer network to the consumer's web browsing appliance (see at least col. 4, lines 42-56). Sobalvarro further teaches:

- Receiving a request identifying an interest in a set of items: system elicits the consumer's mood and other constraints (see at least Fig. 2B; Fig. 2C; Fig. 3B (264); col. 13, line 66-col. 14, line 5).
- Identifying potential providers capable of providing items; in response to receiving the request: subset of package schema is selected; determines which items fit or match; uses algorithm to match provider's products (see at least Fig. 3B (266-268); col. 14, lines 4-12).
- Sobalvarro teaches all the above as noted under the 103(a) rejection and teaches i) packaging multiple items from a plurality of different providers, produces dynamically created candidate set of packages to present to the consumer (see at least Fig. 3B (270); col. 14, lines 13-21), ii) preset arrangements. Both consumers and suppliers get a much better solution from system versus other providers. Consumers get great values because the system is able to offer packages at a discount to what the consumer would pay if he or she created the package on his or her own

(due to established partnerships with suppliers) (see at least col. 11, lines 3-8) and suppliers comprising hotel, airlines, resorts. Although Sobalvarro does not mention preset arrangements between suppliers, PRN on the other hand teaches present arrangements between suppliers. PRN teaches Priority Club Worldwide offered by Bass Hotels & Resorts providing club benefits including Priority Check-In, weekday newspaper, and choice of collecting points or airline frequent flyer miles. U: see at least pages 2 and 3. One of ordinary skill in the art at time the invention was made would have recognized that applying the known techniques of PRN would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the techniques of PRN to the teachings of Sobalvarro would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such data processing features into similar systems. Obviousness under 35 USC 103 in view of the Supreme Court decision *KSR International Co. vs. Teleflex Inc.*

Sobalvarro and PRN further teach and suggest:

- Providing information reflecting the package of items: presents packages to the consumer (see at least Fig. 3B (270); col. 14, lines 12-21).

- Receiving a purchase request: receives purchase selection from consumer (see at least Fig. 3B (274); col. 14, lines 22-23).
- Providing a confirmation: systems confirms availability, locks the items in the database, decrements the count of all selected items within the database and completes and confirms the transaction with the consumer (see at least Fig. 3B (276); col. 14, lines 24-26).
- Providing information reflecting the package of items in response to the request. Descriptions of products and/or services are entered into the system's database and presented to the consumer for review and purchase (see at least abstract; see at least col. 4, lines 42-56).
- Combining items into the package such that a total price associated with the package is less than a sum or prices for all the items in the package individually. Both consumers and suppliers get a much better solution from system versus other providers. Consumers get great values because the system is able to offer packages at a discount to what the consumer would pay if he or she created the package on his or her own (due to established partnerships with suppliers) (see at least col. 11, lines 3-8). Please note: Total  $x+y$  using system is less due to discounting than Total  $x+y$  without discounting.
- Discounting packaged items: Please note examiner's interpretation: price of car rental will be less than if purchased alone, and total price of package combining car rental with a particular airline results in cost

that is less than the sum of the car rental purchased alone and airfare purchased alone.

- Package request processor: (see at least Fig. 3(20); Fig. 3A (202); col. 4, lines 42-56).
- Provider database: (see at least Fig. 3A (400)).
- Booking engine. Computer reservation service (see at least Fig. 3 (208)).
- Pertaining to system Claims 14, 17, and 18. Rejections of claims 14, 17, and 18 are based on the teachings and rationale as noted above.

**2. Claims 4, 5, 15, 16, and 19-21 are rejected under 35 USC 103(a) as being unpatentable over Sobalvarro (US 7,092,892) and PRN (PTO-892, Item: U) further in view Official Notice (admitted prior art regarding old and well-known in the arts).**

Sobalvarro and PRN teach and suggest all the above as noted under the 103(a) rejection and further teach and suggest i) selling providers using the system to their services and/or products into bundled packages with other providers, ii) third-parties (i.e. travel agents/agencies) using the dynamic package service via their tradition travel websites by linking to the Sobalvarro system (see at least col. 11, line 53-col. 12, line 3), and iii) tapping into perishing inventory offers a huge opportunity to increase efficiency, reduce waste and increase profits (i.e. for providers). Although Sobalvarro and PRN do not mention

compensating providers and selling agents, commission structure, and notifying selling providers and agents, Sobalvarro and PRN in combination with Official Notice teach and suggest the claimed invention. This examiner takes the position that it was old and well-known in the arts at the time the invention was made that sellers of goods and services were compensated by being paid a commission based upon commission structures (e.g. a percentage of gross sales, a percentage of net sales (sales price minus costs), or combination). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Sobalvarro and PRN to disclose selling provider and agent compensation and commission structure as taught by Official Notice, in order to more fully inform selling providers how they will be compensated, and thereby attract selling providers to the service.

**3. Claims 11-13 are rejected under 35 USC 103(a) as being unpatentable over Sobalvarro (US 7,092,892) and PRN (PTO-892, Item: U) in view of Walker (Paper #5, IDS, patent number 6,138,105).**

Sobalvarro and PRN teach and suggest all the above as noted under the 103(a) rejection but do not mention specifics on bundle pricing schemes. On the other hand, Walker teaches bundled packaging of goods and services and pricing of bundled packages. Walker further teaches:

- bundling French fries (X: examiner's notation for regular retail price of French fries) and soda (Y: examiner's notation for regular retail price of

- soda) at a single price that is less than the sum of the prices of the individual products (bundled single price  $< (X+Y)$ ) (see col. 1, lines 33-37),
- o bundling of product X (product ID 1) with product Y (product ID 2) where at least the bundled price of X is 10% less than retail price of X by a predetermined percentage (see at least Fig. 5 (506); col. 6, lines 35-62).

Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Sobalvarro and PRN to implement bundled pricing methods as taught by Walker, in order to provide a pricing incentive to the consumer, and thereby increase sales.

Although Sobalvarro and PRN do not specifically mention the item being less than the item suggested retail price by a percentage, Walker teaches setting an item price included in a bundle lower than the retail price of the item by a predetermined percentage to create a purchasing incentive (see at least Fig. 5 (506); col. 6, lines 35-62). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Sobalvarro and PRN to use a predetermined percentage to compute a lower item price as taught by Walker, in order to provide a pricing incentive to the consumer, and thereby increase sales.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP



§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

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/Robert M. Pond/  
Primary Examiner, Art Unit 3625  
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